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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Moshe Kuperman

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Write the full name of each plaintiff.

-against-

New York City Department of Education

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\_\_\_\_ CV \_\_\_\_  
(Include case number if one has been assigned)

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

**EMPLOYMENT DISCRIMINATION COMPLAINT**

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. PARTIES****A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Moshe	Kuperman	
First Name	Middle Initial	Last Name
2569 W 2nd St., Apt 1		
Street Address		
Brooklyn	NY	11223
County, City	State	Zip Code
347-439-7760	moshe_Kuperman@yahoo.com	
Telephone Number	Email Address (if available)	

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:	New York City Department of Education		
	Name		
	100 Church Street		
	Address where defendant may be served		
	New York	NY	10007
	County, City	State	Zip Code
Defendant 2:	Ronald James		
	Name		
	982 Hegeman Ave		
	Address where defendant may be served		
	Brooklyn	NY	11208
	County, City	State	Zip Code

Defendant 3:

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 Name

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 Address where defendant may be served

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 County, City

State

Zip Code

**II. PLACE OF EMPLOYMENT**

The address at which I was employed or sought employment by the defendant(s) is:

P.S. 202

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 Name

982 Hegeman Ave

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 Address

Brooklyn

NY

11208

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 County, City

State

Zip Code

**III. CAUSE OF ACTION****A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☒ **Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin**

The defendant discriminated against me because of my (check only those that apply and explain):

☒ race:

White

☐ color:☒ religion:

Jewish

☐ sex:☐ national origin:

- ☒ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: White/ not African American

- ☐ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: \_\_\_\_\_

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

#### **B. Other Claims**

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law): \_\_\_\_\_

#### IV. STATEMENT OF CLAIM

##### A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☒ terminated my employment
- ☒ did not promote me
- ☐ did not accommodate my disability
- ☒ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☐ harassed me or created a hostile work environment
- ☐ other (specify): brought in younger African American teacher to replace me, afforded other individuals in similar positions as myself information and opportunity to gain tenure.

##### B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

See attached

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As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

## V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? 11/04/2019

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? 5/27/2020

When did you receive the Notice? 6/11/2020

☐ No

## VI. RELIEF

The relief I want the court to order is (check only those that apply):

- ☐ direct the defendant to hire me
- ☐ direct the defendant to re-employ me
- ☐ direct the defendant to promote me
- ☐ direct the defendant to reasonably accommodate my religion
- ☐ direct the defendant to reasonably accommodate my disability
- ☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

Lost wages, removal of any problem code or open investigation cases from file to allow me to gain employment, future lost wages as a result of Defendants actions, compensation emotional and physical distress

**VII. PLAINTIFF'S CERTIFICATION**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>8/18/2020</u>		<u>Moshe Kuperman</u>	
Dated		Plaintiff's Signature	
Moshe		Kuperman	
First Name	Middle Initial	Last Name	
<u>2569 W 2nd St., Apt 1</u>			
Street Address			
<u>Brooklyn</u>		<u>NY</u>	<u>11223</u>
County, City		State	Zip Code
<u>(347)-439-7760</u>		<u>Moshe_kuperman@yahoo.com</u>	
Telephone Number		Email Address (if available)	

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes    ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

**CONSENT TO ELECTRONIC SERVICE**

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

**Civil case(s) filed in the Southern District of New York:**

**Note:** This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

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Kuperman, Moshe

Name (Last, First, MI)

2569 West 2nd St., Apt 1

Brooklyn

NY

11223

Address

City

State

Zip Code

(347) 439-7760

moshe\_kuperman@yahoo.com

Telephone Number

E-mail Address

Date

8/17/2020

Signature

Moshe Kuperman

**Return completed form to:**

Pro Se Intake Unit (Room 200)  
500 Pearl Street  
New York, NY 10007



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EEOC Form 6 (11/09)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>520-2019-05047</b>	
<b>New York State Division Of Human Rights</b> and EEOC <i>State or local Agency, if any</i>			
<b>Mr. Moshe Kuperman</b> Street Address <b>2569 west 2nd st apt 1a, Brooklyn, NY 11223</b>		Home Phone (Incl. Area Code) <b>(347) 439-7760</b> Date of Birth	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>DEPARTMENT OF EDUCATION</b> Street Address <b>982 Hegeman ave, Brooklyn, NY 11208</b>		No. Employees, Members <b>Unknown</b> Phone No. (Include Area Code) <b>(718) 649-7880</b>	
Name <b>RECEIVED</b> Street Address <b>DEC 18 2019</b> <b>E.E.O.C.</b> <b>BOSTON AREA OFFICE</b>		No. Employees, Members Phone No. (Include Area Code)	
DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input checked="" type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest <b>06-26-2019</b> Latest <b>06-26-2019</b> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <b>Mr. Ronald James retaliated against me for advocating on behalf of special needs students, APPR and reporting incidents. Principal Ronald James discriminated against me because of my religion by not extending my tenure status. Three African descent teachers' received an extension. Additionally, he questioned me if I were Jewish or not during a tenure meeting. He further asked the payroll secretary if I took off last year for my religious holiday. Mr. James failed to provide anti bullying and respect for all curriculum to students who continuously taunt me stating I'm Jewish White racist. He practiced disparate treatment by not helping me against racial slurs. He assisted other teachers who were African descent with behavioral problems because they didn't file grievances or incident reports.</b>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
November 14, 2019 Date		SIGNATURE OF COMPLAINANT <b>Moshe Kuperman</b> Moshe Kuperman Charging Party Signature	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

My name is Moshe Kuperman and I am a licensed New York State teacher. Presently, I am a discontinued probation physical education teacher after teaching for four years at Public School 202 in Community School District 19.

I am forwarding a detailed timeline of events under Mr. James' leadership. Events include incidents, harassment, and termination of staff.

At the end of school year 2016-2017, Superintendent Thomas McBryde introduced Mr. James to the staff. Mr. James stated he was very personable and he was eager to acquaint himself with the staff.

In September of 2017, I had an initial planning conference with Ms. Vosges, Assigned Assistant Principal to discuss the four observation options. She explained the criteria for each option and her expectations. After careful consideration, I chose option one. Ms. Vosges observed me twice with informal and once formal. Around February 2018, Mr. James conducted an informal observation. Initially, I thought the lesson was effective considering I was instructing a few difficult students in a fifth grade class.

From November 2017 -June 2018, students in general misbehaved in class, auditorium, cafeteria, gym, and during prep periods. They walked out of their classroom without permission, cursed at their peers, fought, bullied, threw objects, refused to listen to their teachers, argued, disrespected the adults, and refused to adhere to administrators' rules.

For instance, a teacher hastily escorted her class to the gymnasium because they were very loud in the hallway as well she had other students who were assigned to her class. Furthermore, there were a few that were not supposed to be there and illegally entered, started fighting and cursing students from my class. While I was dealing with these students, the class started to have problems. One student was upset at another claiming that she made fun of her brother who passed away. This girl did not want to come to gym because she was intimidated and being bullied by the other girl. The teacher refused to retain the child who was bullying during her prep. Also, two students were threatening and arguing with each other. Three students dared a peer to touch students and eventually pushed a student from behind and then fled the scene. Students follow suit, leaving the gymnasium without permission. They returned to the gym, ignored my request, and ran out the back exit without my authorization. I urged students who did not belong in the gym to return to their class. School Safety Agents were informed of the situation and requested students' names. Minutes passed and Mr. James came in and asked the students who did not belong in the gym to leave. Mr. James asked for my lesson plan without acknowledging the issues. I gathered my students and discussed the importance of safety and conflict resolution. Mr. James stayed around ten minutes and then left. I never heard a word from Mr. James. He never introduced himself to me, never had a conversation with me, nor barely acknowledged me. I went on Advance Teacher Evaluation and noticed that he had put in both observations considering his second visit to also be an observation even though there were

clearly behavior problems from students who were not scheduled to be in the gym. He observed me for ten minutes. They were both rated ineffective with no positive remarks.

At this point, there was no reason to confront him knowing the school atmosphere was no longer positive and the fact that I am an untenured teacher. I just kept my fingers crossed, hoped that I would survive the year, and be placed on the organization sheet for the next year. Mr. James forced two school safety agents to transfer to another school because, unfairly retrenched the nurse for following nursing protocols, fired Ms. Julian, a concerned Parent Coordinator, excessed eight teachers claiming budget deficit forced him, and dismissed an untenured assistant principal, Ms. Radix. He also removed a veteran teacher, Mrs. Salahuddin from the classroom and made her a substitute teacher because she reported incidents, injuries, and special education violations.

On the last day of school, Mr. James gave me my observation to sign. I signed it against my will. Mr. James reviewed my score and threatened me. He said "You scored low and I'll be frank with you. You are untenured and your career is on the line" I was just glad that I had the summer to reflect and thankful that I had a job. Allison Shepherd, UFT Representative for PS 202 told me that I was lucky to be on the sheet and that I still have my job. Teachers asked questions pertaining to excessing and nontenured educators. Mrs. Shepherd stressed to the staff that I was not excessed because I held a physical education license. Many colleagues questioned about Mr. Daniel's status. He was on probation and untenured. October of 2018, I was very fortunate to have Mr Vogue observed me and grateful, I ended up as an affective teacher after the MOSL.

On September 5, 2018, Mr. James opened the professional development by telling the staff "Why he became an educator?" He shared his story about his parents enrolling him a predominately European school in Queens. First grade teacher said racial remarks. Another teacher was good to him and taught him math and English. He ended his memoir by informing staff he became an educator because of both of these experiences and my "Why" is because of the color of my skin. He wanted to test our "Why." When I heard his request, I became frightened being that I am Jewish, white and untenured. I was very surprised to find out that Ms. Voges who is a veteran and tenured administrator was not returning to PS 202. She was an amazing and professional assistant principal who was supportive of teachers. It was equally shocking that Ms. Murat who was a ULIT Reading Coach last year was promoted as our new assistant principal.

This year, I was observed once by Mr James, which I felt I did well. I was summoned by the school's secretary to obtain my feedback. To my surprise, it was rated ineffective in every category. Mr. James failed to have an initial planning conference with me.

That's when I decided I was going to request a meeting. At a meeting on December 17<sup>th</sup> 2018, Mr. James took charge telling me that I have to split my gymnasium in half. During the meeting, I did not express what I originally had in mind. I asked him can we discuss the observation. He asked what I would like to know. I explained to him that I felt I did at least a developing for the questioning category. Students were asked why fitness is important and I received five correct answers. Some responses were, it makes

you healthier, stronger, helps you lose weight, etc. He said that they were level one questions and answers and that he followed a rubric. I then requested for a coach, Mr. James agreed a physical education coach will provide support by answering my questions, addressing my concerns, helping me plan effective instruction, and modeling structured physical activities. Mr. James specifically stated observations will resume after the mentor work with me. I acknowledged his recommendation and applied for a mentor. During the exchange, Mr. James threatened me again and said "You are an untenured teacher and your career is on the line." I left his office thinking about our conversation which just left me dissatisfied, confused and intimidated. .

Before the Christmas break, I requested a personal day. My son was scheduled for surgery. The secretary forwarded my request to Mr. James. Mr. James returned the form to her with no signature. She gave the document and he finally signed. On Thursday before I was to take my personal day for my son, two students who came into the gym before their class was scheduled to come to gym. I redirected them to come with their class. The two students left and loomed around the school. When the class came, their teacher was looking for them. However, they were not present. While I was implementing a new routine with the class, I was faced with the usual students disregarding the rules, running around while all the other students were in two lines. Mr. James came into the gymnasium nervously telling me Mr. Kuperman "Get a hold of your gymnasium." While clinching his hands together, he said it several times telling me never to let anyone leave the gymnasium. He saw some of the students running around and I explained those are the ones that disregard all the rules. He did not address the students but said to me "Get a hold of your gymnasium. I was humiliated. I felt my whole career was on the line, hanging on by a thread, all my hard years of school, all my years teaching, the last two years in the DOE as an affective teacher. I never felt so dark. Support was at the lowest I have ever felt in my life, I felt as if I have no chance under this subjective and unsupportive environment. As I was driving home I couldn't control my emotions.

Right after the break in 2019, after sitting in a meeting with Mr James that I requested and he agreed to allow me to work with a coach before my next observation. On January 7<sup>th</sup>, 2019, Ms. Murat came to observe me with Class 502 which is the most difficult class in the school. Class 502 is an ICT class with a special education teacher. The regular education teacher was injured in November of 2018 and the educational assistant was reassigned to Pre-K 202. While Mrs. Murat was waiting in the gymnasium to observe class 502, I went up the stairs to see if the class was coming. When the teacher saw me, she left the group halfway down the hall. The students were unruly. Two students were saying inappropriate things and cursing. They were extremely disrespectful. I tuned them out. Mrs Murat stepped out and some of the students congregated by the bleachers. I asked them to go and sit with the class. Instead of following instructions, they screamed in my face and continued to curse. I did not have a voice because I was under the weather. A female student called me a rapist and the other female students agreed that they heard I was a White rapist. It was disturbing. I continued on trying to focus my attention to the class. However, two students ran and spat thing out on the floor. I approached them and clearly stated again that Ms. Murat is here today show me the correct behavior. A student replied that

Ms. Murat can go f—off. During the remainder of the class when Ms. Murat came back, the two students continued to talk with their backs facing me and ignored my request to sit out while I was addressing the class. I was still disturbed. Then I remembered how they spoke to me earlier this year before I had them in September of 2018. The classes were sitting downstairs in the auditorium. It was a hot day and I had sweat showing on my t-shirt from my underarms. The same two students were sitting together and laughing at me and yelled, "Mr. K look at your underarms. Its disgusting." Then a female student asked me if I were white or Jewish. I shook my head and ignored them.

On January 18, 2019 Ms. Murat came into my gymnasium during fitness development. The students were playing a game of tag. I was tying my shoelaces and she yelled at me and said "This is what I'm talking about. You had your head down and that student is hanging on the shelve and this is not structured." I tried to explain some activities were part of fitness development. She demanded that I go over the routines with the students. She didn't provide support or model routines.

On January 24, 2019, Ms Murat stated she saw my incident report that occurred on January 7/2019 and she will not enter it online because she claimed I submitted the report late. I tried to explain to her the form was given to her on January 9<sup>th</sup>, 2019. She then went to get the report, showed it to me and started mocking my English and how I write. She read "Ms Murat stopped outside I said no "stepped outside" I felt embarrassed especially, coming from a former reading coach.

On February 11, 2019 Ms. Murat, came to observe me once again with the class 502, with the student who assaulted me. Right before Ms. Murat entered, a student spilled water all over the gym. When I asked her to go get paper towels, she said get out of my face I can do whatever I want to. Miss Murat walked out towards the end of the observation. I divided the students into groups to practice their basketball skills. Some of the girls were on the side. I walked over to a group of girls sitting on the bleachers asked them to put their cell phones away. They told me to get lost because my breath stinks. Ms. Murat walked back in and I told her what occurred. She ignored me and said where is your lesson plan, not acknowledging my hardship. Later on she attempted to talk to a student. The student walked away with an attitude. Ms. Murat wrote an email that students were not following instructions and issued the next step. She wanted me to create a behavior and reward system, however she had never recommended that before.

On February 26, 2019. after grieving all my observations on February 25<sup>th</sup> 2019 and reporting incidents, Mr. James came into the gymnasium during a basketball lesson during period 7, around 11:05am and stared at me. He made me feel uncomfortable. He was trying to intimidate



me in front of the students. After school the secretary came up to the gymnasium to hand me a letter from Mr. James regarding a professional misconduct duty charge. This was harassment.

On February 27, 2019, Mr James, came to the gymnasium with two third grade students during my prep period around 8:30 am. He told me there was an incident in the gym with both of these students, in which one of them slapped the other. I responded that the student did not inform me of the incident and I did not recall him coming over to me. Mr. James turned to the boy and asked the student did he go to me. The boy said yes. Then he turned to me and said he is saying he did, insisting that I am not telling the truth. Repeatedly, it was explained that I did not recall. He told the child that I was lying. Mr. James embarrassed me in front of two boys. I felt intimidated, very anxious, bullied and embarrassed. The next class was difficult for me to teach because I was belittled with no support. During the day I was disturbed and had a sense of not being welcome into the school. Later on, I asked one of the boys to write what happened with Mr. James. The student stated in writing that Mr. James assured the student that he was correct and that I was not telling the truth.

On March 7, 2019, at a meeting, Mr. James asked me if I were Jewish. I answered yes and I asked him why he wants to know. He responded that he was just asking. He reviewed and explained the tenure rubrics. He furthered stated emails regarding incidents and accidents will negatively play a role in me getting tenure. As a result, I stopped sending him emails concerning safety of students.

On March 20, 2019, Miss Murat came in the gymnasium during my prep time and rebuked me after a couple of incidents that happened in the gymnasium. She said we cannot have any incidents. I explained to her that it is just myself with no paraprofessional or assistant. She said you did not notice a student walking out of the door. I said I sent that student to the wall near the exit to cool down because she was fighting and arguing with other students. Then she replied what about another student who usually sits on the side and does not participate. I said I did not notice that student. There were other things going on in the gymnasium. She said you have to reflect and think because we cannot have this going on, leaving me feeling overwhelmed and nervous with no support.

On Thursday March 21, 2019, I was absent celebrating my religious holiday in which the principal did not want to grant me the day. He questioned the secretary whether I took off last year for my holiday and then ended up signing because he was in a rush to run to Chicago for a weekend trip.

On Friday March 22, 2019 my secretary gave me a letter from Ms. Mura. It was another charge for discharge of professional duty. This is the second time this year that I have received a letter in less than two months. In all my four years I have never received a letter such as these. This just added to my insecurity again feeling singled out and targeted.

On March 28, 2019, I received the following email from Mr James stating that I have until 8am the next morning:

The father of student A presented himself to the office today claiming that his son has been "bothered, and his hair pulled by the same boy, student B and an unknown female student. Mr. Daniels, a Sandford and Harmony teacher was n contact with student A's dad yet the behaviors have continued. The father also alleged that this takes place in the gymnasium. All parties, please provide me anecdotal records with your tier 1 intervention for any incident with or concerning student A by 8 AM tomorrow morning. Thank you.

My response:

Dear Mr. James,

Student A has not been in physical altercations in a while. He is with his therapist during gym time and sometimes comes in towards the end of the gym period. However, I do see student A engaging in verbal confrontations with students at times when he is in the gym and I quickly intervene.

For example, this past Monday, at the end of the gym period, I noticed Student A exchanging words with a student or two and also witnessed him tagging another student. When students try to retaliate, I would redirect them. I called his home and was unsuccessful. In general, Student A's behavior improved in terms of displaying appropriate socialization skills and less arguments. He left the gym a couple times without permission and I addressed him about it. As far as his hair being pulled not Student A nor anyone else complained to me.

Sincerely,

Mr. Kuperman

On Friday March 29, 2019 I stayed a half hour after school to fill out an incident report. As I was leaving the gymnasium, I saw Ms Murat laughing and having a good time with a teacher. She then glanced through the window and pretended not to see me. I walked through the doors in her direction. She was going her separate way. I stopped Ms. Murat and hand-delivered an incident report. She rolled her eyes and replied, "Again. What is with your class? They are prone to injury". I kindly responded I'm doing what I am supposed to do. She made me feel incompetent by belittling me. On my way home, I felt sad and useless.

Initially, I wanted to forward this letter to NYCDOE, but I was afraid to send this letter after I spoke to my union. They said unfortunately your principal is the man with the pen and has all power. They further stated, he can discontinue you if he wishes.

On April 4<sup>th</sup>, 2019, Mr. James sent an email stating that administration was not aware of incidents in classrooms and gymnasium. He requested that staff members to notify administration in writing and

write an incident report or the responsible staff will be reprimanded. In this email he willfully did not mention incidents occurring in the cafeteria, playground, auditorium, art class, and social emotional prep class daily. It was obvious he was aiming at me. I was embarrassed in a public email.

On April 9, 2019, I addressed and escorted a class prior to coming to the gym. My coach advised me to talk with classes before they enter the gym. My coach came in April and observed me twice. He noticed it was impossible for me to handle all of them by myself, especially students with ADD/ADHD to the gymnasium and several students who ran ahead and ran around the gym. As I split the students up to play line soccer, several students continued to run outside the gym chasing each other in the hall. Mr. James came up and questioned me about the class. Mr. James witnessed a few students outside of the gymnasium without a pass, students pushing each other, and hurting their peers. I blew my whistle and requested that they sit on their line. He rebuked me, took one student out, and vacated the gym. Students continued to run and chase each other. One student was scratched on the top of his eye while he was waiting his turn for his number. While at lunch in the teachers' lounge, the parent coordinator came in and said Mr. James needs to talk to you immediately. I left my lunch and went to him. The boy was sitting in the office. Mr. James looked at me with disdain and said explain this! I said I addressed the whole class about safety and routines. These students defy my authority. They ran ahead and chased each other. Mr. James continued and said, I am asking you to explain this! He said this is a lawsuit. I felt belittled, disrespected, unsupported and afraid. The child who injured a student's eye was not suspended or incurred consequences by administration. The next day the same child kicked a student in the school yard. The boy fell back and hit his head on the concrete under Ms. Murat's supervision. The boy was sent to the hospital. He endured swelling on his brain and stayed home for precaution.

On Tuesday, May 21, 2019, I was scheduled for a tenure meeting, when I got there another teacher was present. I waited until the day was over around 3:15 pm. When the educator left, I kindly knocked on the door. Mr. James was sitting at his desk and invited me inside. I noticed my binder was sitting on the table opened to the first page. He did not get up to greet me, nor did he sit at the table with me. Instead, he directed me to take back my binder. He talked about how it does not match the rubric and we will reschedule a meeting after memorial break. The meeting was adjourned with no explanation. He said just look it over and requested that I show him progression from the start of your career at the DOE. My heart sank and I felt he was not clear and also heard him mumble something under his breath as I was leaving. I felt he was degrading me and feared he was saying something to himself about me.

When I came back from my holiday on June 12, 2019, teachers asked me where I'm going for next school year since I was left off the reorganizational sheet. Immediately, I went to the main office to confirm. There was no reorganization sheet in my mailbox and applied for a physical education teacher by email.

Mr. James covertly gave the art teacher advance notification about the postings a day before the deadline. I found out after the due date when the secretary asked me if I notice the postings



Now, it's June 18, 2019 I have not heard anything from Mr. James. I am the only licensed physical education teacher in the building. Mr. James purposely ignores me when he sees me. He has not scheduled an appointment as promised in May of 2019.

Three African American teachers were up for tenure. They all received ongoing support, specific advice and eventually an extension. However, Mr. James did not afford me the opportunity or his time.

I was targeted because of my religion. I was given negative ratings in lieu of reporting incidents. I was harassed for requesting a gym coach and educational assistants for students who have IEP clearly identifying them as ADD/ADDH.

I was treated like this, since day one, since Mr. James declared his "why" he became an educator because of the teacher who was racist towards me and the teacher who embraced me and taught me English and math and because of the color of my skin. I was not given the same professional courtesy and extension grace that three other non-Jewish teachers in my school received, though did not have the same challenges I had.

On June 26, I received a letter of denial of tenure from my secretary. I sent an email to Mr. James requesting him for permission to see my file and return my personal belongings (binder and basketball sitting in his office). This was his response.

Ms. Murat will arrange time before COB for your file. Your binder is with Kiana. Your ball will be returned unless it was purchased with school funds then it will remain in the school's possession. Do you have a receipt of purchase for the ball? Please advise.

After having my heart taken away and leaving my family stranded with no remorse or conversation of why, I was given a denial letter. Mr. James had the audacity to ask me for a receipt. In short, he was questioning my honesty.

On Friday, June 28, 2019, after trying to forward emails to my personal email account knowing that I will be logged out of my DOE account, Mr. James sent me a high importance email demanding that I stop sending him notifications from my calendar. Mr. James decided to address me by name for the first time. Previous emails and meetings, I was never addressed as Mr. Kuperman. I felt intimidated and malice intention to watch me fail in the teaching profession.

I became a teacher to make a difference and because of my love and passion of fitness, only to have gone through, a broken finger breaking up a fight between two fifth graders in 2017, enduring racial remarks, my name slander, harassment, intimidation, termination, and denial of my tenure on my last day. All this I sacrificed to help my family and the children at P.S. 202. Mr. James never gave me a chance, no communication, no support. He pretended to provide support by sending me an email instructing me to attend a PLC even though I was notified when I would go to the group about the upcoming class. He also sent me an email pretending to show support when he sent an email to Principal Ms. Goodson, asking if my untenured Physical Education teacher can speak to her mastery physical education instructor in PD on Monday. However, he never followed up. The coach's assistance in 2018 that I requested never transpired. The Coach assistance in 2019 only came towards the end of the year. Mr. James's observation

reports were totally subjective with no next steps, guidance, nor support. I had no ICT meeting, my Midyear was canceled twice, and I had no end of the year conference. He failed to provide educational assistants for students with ADD/ADDH. Mr. James ignored me throughout the year.

I exhibited moral conduct, showed competent, performed my duties as a teacher, was compliant, and was never found guilty of crimes or fraud. There was no reason to discontinue or dismiss me.

On August 7, 2019, I was nominated for a position in a nurturing and supportive school environment. Because I was discontinued, I went through a new teacher hiring process. I waited patiently as I was on step 4 of my OPI background check. On August 20, 2019, I checked my status and noticed my application was canceled. The next day I went down to the OPI office to inquire. A letter was given to the prospective principal and she rescinded the offer. I immediately reached out to the principal and she said that I had four open OSI cases and said she cannot hire me. Immediately, I went to the United Federation of Teachers. A union representative contacted OSI and was informed that all the cases are not with their office but with the senior level the principal at the school.

Mr. James purposely never investigated these frivolously cases. As a result, I was denied many employment opportunities. The principal in Harlem offered me a job although I was discontinued. Another principal was going to hire me, but after asking me for my file number, she never reached out again.

It's one thing to get rid of an employee for poor performance; it's another thing when you try to prevent an employee from a bright future to help students and his/her own family with no assistance nor communication. But he can only offers discontinue letters, 48 hour notices and fraudulent charges. It's all about his power and it is very evident in his letters, emails and actions. How in the world can this man make a decision on my future or any of the teachers at P.S. 202? Mr. Ronald James needs to be removed as principal of Public School 201.

Sincerely,  
Mr. Kuperman

Dear Superintendent McBryde,

My name is Moshe Kuperman & I am a probationary physical education teacher. I have never met you; however I did see you in my school, P.S. 202, a couple of times. Unfortunately, I am sending you this letter to appeal for a review and reconsideration in response to a denial of tenure notice given to me by Principal Ronald James as well as a follow up on the reasonable accommodation request for a safety transfer.

During my probationary period, I've made progress in my craft as a gym teacher. Teaching in a cluster position allows you to influence a lot of students. Over the years, students have said that they now exercise regularly and play sports and activities. During the last four years, I am certain of the positive influence I've had over the majority of my students. Students constantly come by to say hello and are always happy to see me.

My gymnasium environment was exciting and I've gotten along and worked closely with my colleagues. Some classes were tough and not easy, however I did overall have a great impact, especially regarding health and fitness. I made adjustments and significant gains, even though I am a minority in this building.

Over the last two years, a new administration was placed in my school and the environment started to change. Suddenly, administrative support was low to non-existent and the environment became unsafe because of some students. Some of these students had special needs that required special education teacher or paraprofessional presence in the gym during the class. Most of them came to the gym regularly unaccompanied without special needs service staff in class with them.

As a result, some of these students acted out without the special needs services. They bullied and attacked others, verbally and physically - including me. I was questioned about my Jewish identity by students and even Mr. James this year. They spread rumors and taunted me, calling me a "white racist". There were no special needs interventions, nor disciplinary action taken to protect the other students and myself from further violence and verbal harassment.

I also became a victim of assault by a 5th grader who struck me in my back and hurt my spine. I immediately told a supervisor and informed the principal, but a slap on the wrist was the only consequence. The students returned to my class to retaliate against me for reporting them, defy my authority, continue bullying other students and intensify their cycle of harassment against me.

Because the administration failed to intervene appropriately, students continued to assault me on three other occasions and still nothing was done. These verbal and physical attacks and the absence of administrative support caused me to develop anxiety. I feared for my safety so I requested a safety transfer in January 2019 to another school. Mr. James willfully did not sign and submit my comprehensive injury report to proceed with my safety transfer.

Despite the anxiety, I still managed to keep a healthy rapport with the students, staff and administration. I sponsored a fitness night for parents and students and hosted a weekly fitness class for parents and staff. Additionally, I assisted in Blue and Orange day for the fifth graders, hosted the school's Field Day and spearheaded a Move-to-Improve workshop to assist teachers in helping the students complete their mandatory 120 minutes a week required PE.

My evaluation reports from 2016-2019 reflect personal growth and initiative. When I first began teaching in the school year 2015/16, I was not familiar with Danielson Framework evaluation system. So I attended Danielson professional development sessions to become more familiar with what would be expected of me. I shifted from a developing rating as a first year teacher to consecutive effective ratings for 2016/2017 and 2017/18.

I was rated an effective teacher due to my improvements in the following areas: classroom management, environment, planning and instructional strategies. For example, during lesson planning, I incorporated higher order thinking questions for the students as well as assessments. I also designed coherent instruction through lesson planning and arranging groups which aligned to the instructional standards for physical education. Students' positive behavior increased due to effective planning and implementation of a reward program such as point system, raffle tickets and prizes.

Unfortunately, this past 2018/19 year, I was observed three times with ICT classes that had no paraprofessional or special education assistant. After a couple of incidents with one of the classes and even after expressing my concerns to Assistant Principal Murat, she came back to observe me again within a month without granting an instructional coach-mentor support that I requested and an educational assistant for students who are diagnosed as having ADD/ADDH under section 504 of American with disability act.

It was in retaliation for one of my incidence report where I wrote that she walked out in the middle of an observation where the students were cursing, disrespecting her and calling me a white racist, etc. She later approached me and said "What did you write here?" then she stormed off and warned, "You will see."

Mr. McBryde, please know I went into teaching because of my passion and love of fitness. I want to have an impact on as many students that I can about their health and well-being. It saddens me to know that there are teachers struggling like myself, who if given adequate protection and support would grow stronger and actually make a difference on society. Instead, they are wrongfully misjudged and become a target for termination, discrimination, harassment and retaliation - like I am.

I am very personable and dedicated. Physical Education is where I see myself until retirement - in the gymnasium, serving our students and showing them a love for fitness. There are teachers that resign within the first five years; I am not a quitter but a committer. Even though I did not receive the right mentorship and guidance, now that I've gained more experience, I know I will only get stronger.

Like any new teacher, I am a work in progress and I truly believe I will excel. I would like to have the same professional courtesy and extension grace that three other non-Jewish teachers in my school received, though they did not have the same challenges I had.

I thank you so much for your time and consideration in this matter.

EEOC Form 181-8 (11/18)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Moshe Kuperman  
2589 West 2nd St., Apt 1  
Brooklyn, NY 11223

From: Boston Area Office  
John F. Kennedy Fed Bldg  
15 New Sudbury Street, Room 475  
Boston, MA 02203



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2019-05047

Lillian Marti,  
Investigator

(617) 565-3203

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.



The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Feng An

Digitally signed by Feng An  
DN: cn=Feng An, o=United States Equal  
Employment Opportunity Commission, ou=Boston  
Area Office, email=Feng.An@EEOC.GOV, c=US  
Date: 2020.05.27 13:15:21 -0400

May 27, 2020

Enclosures(s)

Feng K. An,  
Area Office Director

(Date Mailed)

cc:

Laura Berman, Esq.  
Deputy Counsel  
NEW YORK CITY DEPARTMENT OF EDUCATION  
Office of Legal Services  
52 Chambers Street, Room 308  
New York, NY 10007

**Addendum to Federal Complaint of Moshe Kuperman**

1. For four years from September 2015 until June 2019, I had been employed at P.S. 202 in Community School District 19 in Brooklyn, New York, as a physical education teacher with the NYCDOE.
2. P.S. 202 is comprised primarily of students and staff of African American or Hispanic descent. I am white and of Jewish religion.
3. At the end of the 2016-17 school year, Superintendent Thomas McBride introduced Mr. Ronald James as Principal to the staff of P.S. 202, beginning in the 2018-19 school year.
4. Prior to Principal James, under former Principal Edward Spencer whom I worked under for 2 years, I received end of year “developing” and “effective” overall ratings for the 2015-16 and 2016-17 school years, respectively.

**2017-18 School Year**

5. On January 17, 2018, Principal James conducted an observation of my teaching. Despite my belief that I performed well on this observation, Principal James rated me “ineffective” in every single category on this observation.
6. On April 20, 2018 Principal James stopped by my gym class for approximately 10 minutes.
7. Within a few days after this April 20, 2018 check-in by Principal James, I checked the Advance Teacher Evaluation. I noticed that he had input a second “ineffective” evaluation with no positive remarks in any category.
8. During the 2017- 18 school year, despite Principal James’ issuance of poor observation reports to me, I was observed by AP Vogue three times and as a result

of her observations and my Measure of Student Learning (“MOSL”) score, I was rated as “effective” overall for the 2017-18 school year.

**2018-19 School Year**

9. During a September 5, 2018 professional development meeting, Principal James stated that his own parents had enrolled him in a predominantly European school in Queens in which he had two teachers, one who would make racist remarks and the other who was good to him. He concluded by saying his “why”, or **motivation**, to become a teacher/ administrator was because of the color of his skin, and how he was treated because of it when he was enrolled in school as a student. He now wanted to test our “why”.
10. As a white and Jewish male who constitutes the minority of the staff at P.S. 202, I felt directly threatened by these clear references to skin color.
11. On March 7, 2019, during a meeting with me, Principal James asked if I was Jewish. He then mentioned that emails I had reported regarding incidents and accidents would negatively impact me receiving tenure.
12. On March 21, 2019, I was absent celebrating a Jewish religious holiday. Principal James only approved the day off after he inquired as to whether I was given time off for the same holiday in the past. A colleague who works closely with Principal James informed me he was reluctant to signing off on my day for observance but did so because he did not want to be bothered with it while out of town for a conference.
13. On Friday March 22, 2019, the day after my absence for the religious holiday, I was issued a disciplinary letter for professional misconduct.



14. On May 21, 2019, I was scheduled for a tenure meeting with Principal James.

When I arrived to the meeting, he abruptly told me to take back my tenure binder because he claimed it did not match the rubric. He offered no explanation and the meeting was adjourned.

15. Principal James had made no effort to reschedule the May 21, 2019 tenure meeting in which he offered no information regarding my portfolio.

16. On June 12, 2019, when I returned to school from a Jewish holiday, teachers informed me that I was left off the organization sheet for the next school year. I went to the school's mail office to confirm and there was no organization sheet in my mailbox despite my email application for a physical education teacher position for the next school year.

17. On June 26, 2019 I received a letter from the NYCDOE informing me of denial of completion of my tenure.

18. Upon information and belief, three African American teachers, Kimberly Dent, Rosemarie Worrie, and Stirleeta Catlin, were up for tenure, and have all received ongoing support by school administration. More specifically, all three of these teachers have received information and advice on their portfolio as well as an extension of their probationary period and were not discontinued by Principal James.

19. Unlike these three other similarly situated probationary teachers, I have been afforded no advice or information regarding my portfolio and was discontinued.



20. Upon information and belief, two other Jewish teachers, Laurie Wilen and Edward Shapiro, experienced disparate poor treatment by Principal James similar to myself.
21. Additionally, other African American teachers have received preferential treatment by administration, specifically Principal James.
22. Jennifer Chabus, a white teacher, received negative ratings and disciplinary letters to her file while her co-teacher, Kimberly Dent, who is African American, was given only satisfactory ratings.
23. Rose Marie Worrie is another African American teacher who received preferential treatment by Principal James. Her classes were non-compliant with ICT regulations; however she received "effective ratings".
24. Stirleeta Catlin, an African American teacher, received an extension of probation, along with assistance and guidance. Ultimately, Principal James appointed her as an SLT mentor and lead teacher.
25. Laurie Wilen, the Jewish technology teacher, was moved to kindergarten and was approached and reprimanded for not producing lesson plans, yet her African American co-teacher, Ms. Alexander was neither approached nor reprimanded for not producing lesson plans. Additionally Ms. Alexander was regularly afforded advanced notice by administration of upcoming observations.
26. Another Jewish teacher treated poorly by Principal James was Edward Shapiro. As result of Principal James treatment, Edward Shapiro ultimately was forced to retire.

27. Upon information and belief, Ms. Allison Shepard, an African American UFT Chapter leader would not file safety, health, and special education complaints made by members of the staff of P.S. 202. For this she received preferential treatment, never given negative ratings or disciplinary letters.
28. Additionally, students of the school often made racist or inappropriate comments or jokes, or exerted aggressive behavior, towards me, with no action taken by administration to address it. For example, on February 14, 2019, I filled out an incident report and emailed Principal James regarding an incident where a student began cursing and interrupting my class and ultimately struck me in the back. I emailed Principal James regarding the incident yet my email and incident report went unanswered. Furthermore, the student faced no disciplinary actions for his conduct.
29. Also on January 17, 2019, I emailed Principal James regarding a past incident where a students called me disgusting and then asked if I was Jewish. This email also contained information regarding an incident which occurred on January 7, 2019, when a student called me a "white rapist".
30. On February 22, 2019, I emailed Principal James regarding an incident where a student used profanity and ultimately vandalized some of my belongings.
31. All of my emails to Principal James regarding student profanity, assaults, and false racist accusations went unanswered by Principal James and the students were not disciplined.
32. Upon information and belief, Melissa Janvier, a young African American female gym teacher, ultimately was hired by Principal James to replace me.